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U.S. Department of Homeland Security
U. S. Citizenship and Immigration Services
Office of Administrative Appeals MS 2090
Washington, DC 20529-2090



U.S. Citizenship
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FILE: [REDACTED] Office: TUKWILA (SEATTLE)
MSC 07 206 10960

Date: FEB 05 2010

IN RE: Applicant: [REDACTED]

APPLICATION: Application for Status as a Temporary Resident pursuant to Section 245A of the
Immigration and Nationality Act, as amended, 8 U.S.C § 1255a.

ON BEHALF OF APPLICANT: SELF-REPRESENTED

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. The file has been returned to the National Benefits Center. If your appeal was sustained, or if the matter was remanded for further action, you will be contacted. If your appeal was dismissed, you no longer have a case pending before this office, and you are not entitled to file a motion to reopen or reconsider your case.

Perry Rhew
Chief, Administrative Appeals Office

DISCUSSION: The application for temporary resident status pursuant to the terms of the settlement agreements reached in *Catholic Social Services, Inc., et al., v. Ridge, et al.*, CIV. NO. S-86-1343-LKK (E.D. Cal) January 23, 2004, or *Felicity Mary Newman, et al., v. United States Immigration and Citizenship Services, et al.*, CIV. NO. 87-4757-WDK (C.D. Cal) February 17, 2004, (CSS/Newman Settlement Agreements) was denied by the District Director, Tukwila, Washington (Seattle). A subsequent appeal was rejected by the Director, Tukwila, Washington. The matter is again before the AAO. In a separate decision issued simultaneously with this decision (under receipt number MSC 04 338 10348), the AAO determined the previous appeal was timely filed and withdrew the director's decision rejecting the appeal. Therefore, the instant appeal is rejected .

An adverse decision on an application for temporary resident status may be appealed to the AAO; the appeal with the required fee must be filed within 30 days after service of the notice of denial. 8 C.F.R. § 245a.2(p). The date of filing is not the date of mailing, but the date of actual receipt. See 8 C.F.R. § 103.2(a)(7)(i). An appeal that is not timely filed will not be accepted. 8 C.F.R. § 245a.2(p).

The director denied the application because the applicant failed to provide evidence that he had resided unlawfully in the United States for the requisite period. The director deemed the appeal untimely filed and rejected the appeal. ¹

The previous decision of the director rejecting the appeal as untimely is withdrawn, and the AAO will issue a separate decision dismissing the applicant's appeal.²

ORDER: The applicant's appeal is rejected.

¹ In this case, the director's notice of denial is dated January 8, 2007, and was mailed to the applicant's address of record. The applicant, however, has submitted a photocopy of a mail envelope which indicates a January 23, 2007 postmark, and according to the applicant, he received the denial notice on January 28, 2007. It is noted that the applicant does not provide the original mail envelope. The AAO, nevertheless, deems the appeal as timely filed as the appeal was received on February 22, 2007, within 30 after service of the notice of denial.

² In a decision issued simultaneously with this decision (under receipt number MSC 04 338 10348), the AAO determined that the applicant had failed to establish the requisite continuous residence, and dismissed the underlying appeal of the director's denial of the Form I-687, application for temporary residence.